

MAR 15 2006

MICHAEL SHIPPEY, PH.D
TECHNICAL CONSULTANT & PATENT AGENT



PATENTS * TRADEMARKS * COPYRIGHTS
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Tuesday, March 14, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Utility Patent Application: Mr. Alfred Max Chavez

Application Number: 10/798,797 Art Unit 3662 Examiner Ian Lobo Filed: March 10, 2004

In Re: Notice of Abandonment dated March 03, 2006

PETITION to the COMMISSIONER UNDER 37 C.F.R. 1.181

To Revive an Application for Patent Abandoned due to Clerical Error

Attention: Office of Petitions

Cc: Examiner Ian J. Lobo

Commissioner for Patents

Mail Stop Petition

P.O. Box 1450

Arlington, VA 22313-1450

Dear Sir:

In response to the notice of abandonment of March 03, 2006, please consider this petition under 37 C.F.R. 1.181. Applicant petitions to revive the patent application 10/798,797 on grounds of clerical error.

According to information obtained by public PAIR and from my client, but not mailed by the USPTO to me, the undersigned, the above identified patent application became abandoned on March 03, 2006, for failure to respond to an office action within the statutory period of 6 months. The notice of the office action was similarly not mailed to me, the undersigned.



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Again based on information obtained from public PAIR, it appears that the mailing address for the undersigned was somehow mistaken at the 'PTO. All pertinent mailings from the 'PTO, including the two above-mentioned mailings, were mailed to the Altera Law Group in Minneapolis, MN. However, the undersigned agent, Michael A. Shippey, remained the
5 official agent of the Applicant, dating from the initial filing of the patent application. No communication in regard to this application has been received by the undersigned since said application was filed.

The official mailing address of undersigned agent, Michael A. Shippey, is:

10 Law Offices of Karla Shippey
4848 Lakeview Avenue, Suite E
Yorba Linda, CA 92886-3452

15 The undersigned agent is not affiliated with the Altera Law Group, and has never been so associated.

In case there was a problem with the Power of Attorney authorizing the undersigned to act as representative for the Applicant, a copy of the original, signed Power of Attorney is attached as Attachment A. This Power of Attorney is viewable on public PAIR.

20 A copy of the office action was obtained from public PAIR. A copy of the action is included herein as Attachment B. A response to the communication from the examiner is included herein, as Attachment C.

25 Applicant believes, and the evidence presented above supports, the conclusion that the instant application was abandoned solely to clerical error within the USPTO.

Therefore, Applicant respectfully requests a speedy consideration of this Petition, correction of the address of Agent, and revival without fee of the instant patent application.

MAR 15 2006

PTO/SB/21 (03-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/798,797	
	Filing Date	03/10/2004	
	First Named Inventor	CHAVEZ, Alfred Max	
	Art Unit	3682	
	Examiner Name	LOBO, Ian	
Total Number of Pages in This Submission	14	Attorney Docket Number	415.100

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks Transmitted by Rightfax Form SB 21 Transmittal = 1 page Petition = 12 pages Election of Species = 1 page		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual	Michael A. Shippey
Signature	<i>Michael A. Shippey</i>
Date	03/15/2006

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: 03/15/2006			
Typed or printed	Michael A. Shippey		
Signature	<i>Michael A. Shippey</i>	Date	03/15/2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-766-9199) and select option 2.



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KARLA SHIPPEY

MICHAEL SHIPPEY, PH.D.

March 15, 2006 Page 3 of 6 Page(s)

Respectfully Submitted,

5 *Michael A Shippey*

Michael A. Shippey, Ph.D. Registered Agent # 45,588 Customer number 30040

Attachments:

- 10
- A. Power of Attorney
 - B. Restriction requirement
 - C. Response to Restriction requirement



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MICHAEL SHIPPEY, Ph.D.

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Attachment A. Original Power of Attorney

MAR 15 2006

Please type a plus sign (+) inside this box → ☐

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/81 (82-01)
Approved for use through 10/31/2002. OMB 0851-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

**POWER OF ATTORNEY OR
AUTHORIZATION OF AGENT**

Application Number	10/798,797
Filing Date	3/10/04
First Named Inventor	Chavez, Albert Max
Title	Acoustic Transducer Assembly
Group Art Unit	
Examiner Name	
Attorney Docket Number	415.100

I hereby appoint:

☒ Practitioners at Customer Number **30.040** →

Place Customer Number Bar Code Label here

OR
☐ Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please change the correspondence address for the above-identified application to:

☒ The above-mentioned Customer Number.

OR

☐ Practitioners at Customer Number →

Place Customer Number Bar Code Label here

☐ Firm or Individual Name

Address

Address

City

State

Zip

Country

Telephone

Fax

I am the:

☒ Applicant/Inventor.
☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).
SIGNATURE of Applicant or Assignee of Record

Name

Albert Max Chavez

Signature

Date

8-25-2004

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of _____ forms are submitted.

Duration Hour Statement: This form is estimated to take 3 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



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MICHAEL SHIPPEY, PH.D.

March 15, 2006 Page 5 of 6 Page(s)

Attachment B. Official Communication of Restriction Requirement

Note INCORRECT MAILING ADDRESS!



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1470
Alexandria, Virginia 22313-1470
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,797	03/10/2004	Alfred Max Chavez	415.100	5637
32845	7390	07/29/2005	EXAMINER	
ALTERA LAW GROUP, LLC 6500 CITY WEST PARKWAY SUITE 100 MINNEAPOLIS, MN 55344-7704			LOBO, IAN J	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/798,797		Applicant(s) CHAVEZ ET AL.	
	Examiner Ian J. Lobo		Art Unit 3662	
	<p align="center">-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</p> <p>Period for Reply</p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). <p>Status</p> <p>1) <input type="checkbox"/> Responsive to communication(s) filed on ____.</p> <p>2a) <input type="checkbox"/> This action is FINAL. 2b) <input type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p> <p>Disposition of Claims</p> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-33</u> is/are pending in the application.</p> <p> 4a) Of the above claim(s) ____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) ____ is/are allowed.</p> <p>6) <input type="checkbox"/> Claim(s) ____ is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) ____ is/are objected to.</p> <p>8) <input checked="" type="checkbox"/> Claim(s) <u>1-33</u> are subject to restriction and/or election requirement.</p> <p>Application Papers</p> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on ____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner.</p> <p align="center">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p align="center">Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).</p> <p>11) <input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</p> <p>Priority under 35 U.S.C. § 119</p> <p>12) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p> a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of:</p> <p> 1. <input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p> 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. ____.</p> <p> 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p align="center">* See the attached detailed Office action for a list of the certified copies not received.</p> <p>Attachment(s)</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____.</p> </div> <div style="width: 48%;"> <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date ____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: ____.</p> </div> </div>			

U.S. Patent and Trademark Office
PTOL-326 (Rev. 1-04)

Office Action Summary

Part of Paper No./Mail Date 20050728

Application/Control Number: 10/798,797
Art Unit: 3662

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DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-31, drawn to an ultrasonic transducer assembly and method of using, classified in class 367, subclass 152.
 - II. Claims 32 and 33, drawn to a method of manufacturing an aluminum hull for use in a watercraft, classified in class 114, subclass 356.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the ultrasonic transducer assembly may be made by a materially different process such as by hand.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Application/Control Number: 10/798,797
Art Unit: 3662

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4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian J. Lobo whose telephone number is (571) 272-6974. The examiner can normally be reached on Monday - Friday, 6:30 - 3:00.

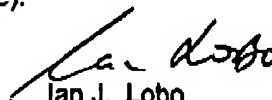
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Art Unit: 3662

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ian J. Lobo
Primary Examiner
Art Unit 3662

ijl



Law Offices of
KARLA SHIPPEY

MICHAEL SHIPPEY, PH.D.

March 15, 2006 Page 6 of 6 Page(s)

Attachment C. Response to Restriction Requirement

MICHAEL SHIPPEY, PH.D
TECHNICAL CONSULTANT & PATENT AGENT



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Wednesday, March 15, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Utility Patent Application: Mr. Alfred Max Chavez

Application Number: 10/798,797 Art Unit 3662 Examiner Ian Lobo Filed: March 10, 2004

In Re: Notice of Restriction Requirement dated July 29, 2005

Election of Claims under 35 U.S.C. 121

Attention: Examiner Ian J. Lobo

Commissioner for Patents

P.O. Box 1450

Arlington, VA 22313-1450

Dear Sir:

In response to the notice of Restriction Requirement dated July 29, 2005 please consider this election:

Applicant elects, without traverse, the first group of claims, specifically, Claims 1 – 31, as classified by the Examiner in class 367, subclass 152.

Respectfully Submitted,

Michael A. Shippey, Ph.D.

Registered Agent # 45,588

Customer number 30040